

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

January 24, 2012

In the Matter of E. F. PARCHER, Minor.

No. 304819

Midland Circuit Court

Family Division

LC No. 11-003817-NA

Before: SAWYER, P.J., and WHITBECK and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g), (h), (i), (j), and (n)(i). Because we conclude that there were no errors warranting relief, we affirm.

Respondent first contends that the trial court clearly erred in taking jurisdiction over the minor child under MCL 712A.2(b)(1). Respondent argues that where a child is in a guardianship, as his child was, the court must take jurisdiction under MCL 712A.2(b)(5). To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction exists by a preponderance of the evidence. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). Moreover, the existence a guardianship does not restrict a court's jurisdiction to that provided under MCL 712A.2(b)(5). *Id.* at 295-296. In this case, the trial court acquired jurisdiction over the child pursuant to the mother's plea. Respondent was not entitled to a separate adjudication. *In re LE*, 278 Mich App 1, 17; 747 NW2d 883 (2008). The trial court already had jurisdiction over the child. Therefore, even if the trial court misinterpreted or misapplied MCL 712A.2(b)(5), any error would be harmless. *Id.* at 18.

Next, respondent contends that the trial court erred in finding clear and convincing evidence to support the statutory grounds for termination. On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings for clear error. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The record contained clear and convincing evidence to support termination of respondent's parental rights. Respondent never provided any support or care for his child. In six years, he sent one note and made one telephone call. Respondent had been convicted of second-degree criminal sexual conduct with a 13-year-old child. He violated the conditions of both his earlier probation and parole with violent, threatening behaviors, to which he pleaded guilty. Respondent was sentenced to a term of 19 months to 15 years. He continued his assaultive and violent behaviors in prison and had been turned down for parole in September 2010 because the

parole board thought he was a menace to society. He had made several statements that he wanted to hurt children, had no bond with the minor child, and had made no attempts to establish any relationship. Respondent had also been diagnosed with several serious mental disorders. Within the six months before the termination hearing, respondent was moved to a special prison facility for treatment following a psychotic episode. The evidence demonstrated that it was highly unlikely that respondent would be released from prison within the next two years. In addition, the child's mother had placed the child in a guardianship, required a guardian herself, and wanted the child's guardians to adopt the child.

Respondent has never provided for his child's proper care or custody, and there was no reasonable expectation that he would be able to do so within a reasonable time. Based on his criminal history, his violations of probation and parole, his violent and threatening actions both in and out of prison, his serious mental health issues and failure to comply with medication, respondent was a threat to his child, and there was no reasonable expectation that he would be able to provide proper care or custody within a reasonable time.

There was also clear and convincing evidence that respondent's parental rights to an older half-sibling of the child had been terminated in 2004 under MCL 712A.19b(3)(c)(i) and (g). The testimony of the worker and the records from that prior termination case, which were made a part of the record of this case, demonstrated that services were provided to respondent but attempts to rehabilitate him had not been successful.

Finally, respondent contends that the trial court clearly erred in finding that termination of his parental rights would be in the child's best interests. MCL 712A.19b(5). We review a trial court's decision regarding the child's best interests for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The court stated that the child needed permanency, which could not be provided by a continuation of the guardianship. On appeal, respondent contends that, because the child had been in the guardianship for most of his life and was in a safe and stable environment that clearly would continue, "permanency" was not an issue. A child permanently placed in a guardianship, especially a child with no relationship or bond with his parents, is essentially placed in permanent limbo. This child needed the permanency that would come with knowing he would remain with and be raised by the people who had parented him for most of his life. The trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ William C. Whitbeck
/s/ Michael J. Kelly